

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE

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INLINE CONNECTION CORPORATION, :
:
Plaintiff, :
:
v. : Civil Action No. 05-866-JJF
:
VERIZON INTERNET SERVICES, :
INC., et al., :
:
Defendants. :

ORDER

WHEREAS, Defendants filed a Motion To Compel Invalidity
Discovery (D.I. 101);

WHEREAS, by their Motion, Defendants seek an Order
compelling Plaintiff to respond to Interrogatory Nos. 1 and 5;

WHEREAS, Interrogatory No. 1 provides:

For each claim element in each CLAIM, identify with
specificity (e.g. by specification column and line
number, by individual reference numbers in specified
patent figures) the words, structures, figures,
diagrams and/or formulas that constitute the alleged
Section 112(1) "written description" support for each
such claim element.

(D.I. 101, Ex. 3 at 3);

WHEREAS, Interrogatory No. 5 provides:

Describe in detail how the disclosure of the
transmissions of video signals at a frequency of 6 MHz
or higher in the specification and drawings of U.S.
Patent No. 6,236,718 would enable one of skill in the
art of [sic] transmit digital signals at lower
frequencies between roughly 10 KHz and 1MHz such as
those utilized by commercial ADSL systems.

(D.I. 101, Ex. 3 at 6);

WHEREAS, Defendants contend that Interrogatory No. 1 goes to proving invalidity for lack of written description and that Interrogatory No. 5 goes to proving invalidity for lack of enablement;

WHEREAS, Defendants carry the burden of proof on their invalidity affirmative defenses, and thus, it would be Defendants' responsibility to identify the ways in which the patents fail the written description or enablement requirements;

WHEREAS, requiring Plaintiff to prove that the written description and enablement requirements are met is unreasonable and unduly burdensome, particularly when issued patents are presumed to be valid;

NOW THEREFORE, IT IS HEREBY ORDERED that Defendants' Motion To Compel Invalidity Discovery (D.I. 101) is **DENIED**.

July 17, 2006


UNITED STATES DISTRICT JUDGE